

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*The County of Summit, Ohio, et al. v.  
Purdue Pharma L.P., et al.*

Case No. 18-op-45090

*The County of Cuyahoga, Ohio, et al. v.  
Purdue Pharma L.P., et al.*

Case No. 17-op-45004

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**THE NON-RICO SMALL DISTRIBUTORS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON PLAINTIFFS' "FAILURE TO REPORT" AND "FRAUD ON THE  
DEA" CLAIMS**

H. D. Smith, LLC, Anda, Inc. Henry Schein, Inc., and Prescription Supply, Inc. (the "Small Distributors") move for partial summary judgment under Rule 56(a) against Plaintiffs' allegations and claims that the Small Distributors are liable to them because:

- they allegedly failed to comply with their obligations under the federal Controlled Substances Act and its implementing regulations ("CSA"),
- they should have allegedly submitted more "suspicious order" reports to the DEA than they did, and
- they allegedly committed a "fraud on the DEA."

In support of this Motion, the Small Distributors submit their Memorandum of Law contemporaneously herewith.

Dated: June 28, 2019

Respectfully submitted,

/s/ John J. Haggerty

John J. Haggerty (0073572)

James C. Clark

Stephan A. Cornell

**FOX ROTHSCHILD LLP**

2700 Kelly Road, Suite 300

Warrington, PA 18976

Tel: (215) 345-7500

Fax: (215) 345-7507

[jhaggerty@foxrothschild.com](mailto:jhaggerty@foxrothschild.com)

[jclark@foxrothschild.com](mailto:jclark@foxrothschild.com)

[scornell@foxrothschild.com](mailto:scornell@foxrothschild.com)

*Counsel for Defendant  
Prescription Supply Inc.*

/s/ James W. Matthews

James W. Matthews

Katy E. Koski

Kristina Matic

**FOLEY & LARDNER LLP**

111 Huntington Avenue

Boston, MA 02199

Tel: (617) 342-4000

Fax: (617) 342-4001

[jmatthews@foley.com](mailto:jmatthews@foley.com)

[kkoski@foley.com](mailto:kkoski@foley.com)

[kmatic@foley.com](mailto:kmatic@foley.com)

*Counsel for Defendant Anda, Inc.*

/s/ William E. Padgett

William E. Padgett (IN No. 18819-49)

Kathleen L. Matsoukas (IN No. 31833-49)

**BARNES & THORNBURG LLP**

11 South Meridian Street

Indianapolis, IN 46204

Tel: (317) 236-1313

Fax: (317) 231-7433

[william.padgett@btlaw.com](mailto:william.padgett@btlaw.com)

[kathleen.matsoukas@btlaw.com](mailto:kathleen.matsoukas@btlaw.com)

*Counsel for Defendants H. D. Smith, LLC  
f/k/a H. D. Smith Wholesale Drug Company,  
H. D. Smith Holdings, LLC and H. D. Smith  
Holding Company*

/s/ John P. McDonald

John P. McDonald (TX Bar # 13549090)

C. Scott Jones (TX Bar # 24012922)

Lauren M. Fincher (TX Bar # 24069718)

Brandan J. Montminy (TX Bar # 24088080)

**LOCKE LORD LLP**

2200 Ross Avenue

Suite 2800

Dallas, TX 75201

Tel: (214) 740-8445

Fax: (214) 756-8110

[jpmcdonald@lockelord.com](mailto:jpmcdonald@lockelord.com)

[sjones@lockelord.com](mailto:sjones@lockelord.com)

[lfincher@lockelord.com](mailto:lfincher@lockelord.com)

[brandan.montminy@lockelord.com](mailto:brandan.montminy@lockelord.com)

*Counsel for Defendants Henry Schein, Inc.  
and Henry Schein Medical Systems, Inc.*

**CERTIFICATE OF SERVICE**

I, William E. Padgett, certify that the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ William E. Padgett

William E. Padgett